

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ALAN JUSTIN SMITH,

Petitioner,

v.

JEFFREY UTTECHT,

Respondent.

Case No. C21-940-TL-SKV

ORDER DENYING PETITIONER'S
MOTION FOR PROTECTION AND
OTHER VICTIMS' RIGHTS

I. INTRODUCTION

This is a federal habeas action proceeding under 28 U.S.C. § 2254. This matter comes before the Court at the present time on Petitioner's "Motion for Protection and Other Victims' Rights." Dkt. 43. Respondent has filed a response to Petitioner's motion in which he argues that Petitioner is not entitled to the relief he seeks and that his motion should therefore be denied. Dkt. 44. Petitioner has requested additional time to file a reply brief addressing the arguments set forth in Respondent's response to his motion (*see* Dkt. 45 at 5-6, Dkt. 48), but the Court deems additional briefing on Petitioner's motion unnecessary and therefore denies his requests to

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1 extend time. The Court, having reviewed Petitioner's motion, and the balance of the record,
2 concludes that Petitioner's motion should be denied.

3 II. DISCUSSION

4 Petitioner challenges in this federal habeas action his 2015 Snohomish County Superior
5 Court conviction on a charge of first-degree murder with a deadly weapon. *See* Dkt. 24. The
6 victim of Petitioner's crime was his wife, Susann Smith. *See* Dkt. 31, Ex. 2 at 1. Petitioner
7 asserted four grounds for relief in his amended petition for writ of habeas corpus. *See* Dkt. 24 at
8 8, 10, 11, 13, 15-17. On April 13, 2022, this Court issued a Report and Recommendation
9 recommending to United States District Judge Tana Lin that Petitioner's federal habeas petition
10 be denied with respect to each of his four grounds for relief, and that this action be dismissed
11 with prejudice. Dkt. 37.

12 On July 8, 2022, Petitioner filed a document which he identified as an "Ex Parte Motion
13 to Expedite Injunctive Relief From Collateral Consequences of Conviction," and which Judge
14 Lin has construed as Petitioner's objections to this Court's Report and Recommendation. *See*
15 Dkts. 42, 46, 47. Petitioner's objections are noted on Judge Lin's calendar for consideration on
16 August 19, 2022. Dkts. 46, 47. On the same date Petitioner filed his objections, he also filed the
17 instant "Motion for Protection and Other Victims' Rights" seeking redress under 18 U.S.C.
18 § 3771. Dkt. 43. Judge Lin referred that motion to the undersigned for disposition. Dkt. 47.

19 Petitioner's motion is somewhat unclear. However, he appears to assert that he and his
20 children are victims of criminal misconduct perpetrated by unnamed "official wrongdoers," and
21 he cites to various provisions of the federal criminal code that he believes have been violated by
22

1 these unnamed officials.¹ See Dkt. 43 at 1-2. Specifically, Petitioner cites to sections of Title 18
2 of the United States Code which criminalize the following conduct: interference with, or
3 deprivation of, rights secured by the Constitution or laws of the United States (§§ 241, 242);
4 kidnapping (§ 1201); receipt, possession, or disposition of ransom money (§ 1202); hostage
5 taking (§ 1203); international parental kidnapping (§ 1204); and, torture (§ 2340A).

6 Petitioner appears to argue that the commission of these offenses by the unnamed
7 officials entitles him and his children to relief under the provisions of 18 U.S.C. § 3771, a federal
8 statute which delineates the rights of crime victims in federal proceedings. While Petitioner
9 suggests that he and his children have been the victims of federal offenses, apparently related to
10 the removal of the children from Petitioner's custody, this is not a federal criminal action nor is
11 this action related to any ongoing federal investigation into offenses involving Petitioner and/or
12 his children. Rather, this is a federal habeas action proceeding under § 2254, the sole purpose of
13 which is to adjudicate Petitioner's claims challenging the constitutionality of his state court
14 conviction.

15 Section 3771 does contain provisions pertaining to federal habeas actions arising out of
16 state convictions. However, those provisions relate to the rights afforded victims of state crimes
17 when the individual convicted of those crimes seeks federal habeas relief in the federal court.
18 See 18 U.S.C. § 3771(b)(2)(A)-(D). The portion of the statute pertaining to federal habeas
19 actions defines a "crime victim" as "the person against whom the State offense is committed or,
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21 ¹ Petitioner's children were removed from his care and custody during the investigation into the murder of
22 his wife. While this fact is arguably relevant to one of the claims asserted in Petitioner's federal habeas petition, this
Court has recommended that the petition be denied and allegations concerning the removal and/or custody of
Petitioner's children have no relevance outside that context.

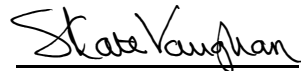
1 if that person is killed or incapacitated, that person’s family member or other lawful
 2 representative.” 18 U.S.C. § 3771(b)(2)(D). Section 3771 also specifically provides that while
 3 “[t]he crime victim or the crime victim’s lawful representative, and the attorney for the
 4 Government may assert the rights” described in the statute, the “person accused of the crime may
 5 not obtain any form of relief under this chapter.” 18 U.S.C. § 3771(d)(1). For purposes of this
 6 federal habeas action, Petitioner is not a victim but, instead, is the person accused of the crime at
 7 issue. Petitioner is therefore not entitled to any form of relief under § 3771.²

8 To the extent Petitioner purports to seek relief under § 3771 on behalf of his children, the
 9 record suggests that Petitioner is no longer the lawful representative of the children (*see, e.g.,*
 10 Dkt. 22) and, thus, he may not assert the rights described in § 3771(a) on their behalf. *See* 18
 11 U.S.C. § 3771(d)(1).

12 III. CONCLUSION

13 Based on the foregoing, Petitioner’s “Motion for Protection and Other Victims’ Rights”
 14 (Dkt. 43) is DENIED. The Clerk is directed to send copies of this Order to Petitioner, to counsel
 15 for Respondent, and to Judge Lin.

16 DATED this 10th day of August, 2022.

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18 S. KATE VAUGHAN
 19 United States Magistrate Judge

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 21

 ² Petitioner, in his motion, also cites to 34 U.S.C. § 20141. This statutory provision identifies the services
 22 available to victims of crimes investigated or prosecuted by the federal government and, thus, appears to be
 23 inapplicable in the circumstances presented here.